

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

RICHARD ALEXANDER,)
Plaintiff,)
v.) CAUSE NO: 2:18-cv-155
CARGILL INCORPORATED,)
Defendant.)

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Richard Alexander (“Alexander”), by counsel, bring this action against Defendant, Cargill Inc. (“Defendant”), and shows as follows:

OVERVIEW

Alexander bring this action brought under, the Americans with Disability Act of 1990 (“ADA”), 42 U.S.C. §12101 et. seq. Plaintiff contends he was discriminated against and harassed because of his disability(ies) in violation of the ADA. Moreover, Alexander contends he suffered adverse employment consequences when he reported the harassment he was experiencing. Finally, Alexander contends that Defendant interfered with his rights under the Family Medical Leave Act of 1993 (“FMLA”), 29 U.S.C. §2601 et. seq., and retaliated against him, both in violation of the FMLA.

PARTIES

1. Alexander resided in LaPorte County. Alexander was an ‘eligible employee’ as that term is defined by 29 U.S.C. §2611(2). Moreover, Alexander, at all

times relevant, was an ‘employee’ as defined by 42 U.S.C. §12111(4) and was disabled as that term is defined by the ADA.

2. Defendant conducts business in Lake County, and this is the location where Alexander worked. Defendant is an ‘employer’ as defined by 42 U.S.C. §12111(5)(A) and 29 U.S.C. §2611(4).

JURISDICTION AND VENUE

3. This Court has jurisdiction over Defendant pursuant to 28 U.S.C. §1331 and 42 U.S.C. §12117(a) and 29 U.S.C. §2617(a)(2).

4. Plaintiff satisfied his obligation to exhaust his administrative remedies by timely filing a charge with the U.S. Equal Employment Opportunity Commission (hereinafter “EEOC”), receiving the appropriate *Dismissal and Notice of Suit Rights*, and timely filing this Complaint within ninety (90) days thereof.

5. As all events pertinent to this lawsuit occurred within the Northern District of Indiana, venue in this Court is proper.

FACTS

6. Defendant hired Alexander on or about June 30, 2014.

7. Alexander was employed as a Crane Operator. Alexander met all legitimate expectations of performance during his employment with Defendant.

8. Alexander’s employment ended on or about October 2, 2017.

9. In early 2014, Alexander was diagnosed with one or more psychological conditions. These were military-serviced related conditions.

10. Alexander required ongoing treatment and consideration because of his disabilities. He began asking for FMLA leave in early 2016.

11. Agents of Defendant learned of Alexander's condition and began to harass him during the summer of 2016. Employees would complain that he would use his 'disability card' to get out of overtime obligations and hide in the workplace and jump out at him in an effort to trigger surprise and an adverse response because of his disabilities.

12. Alexander complained about being harassed by co-workers and by management for missing time that should have been covered by the FMLA.

13. Defendant acquiesced and granted Alexander FMLA leave in September 2016, but only after Alexander hired an attorney who sent a letter on his behalf.

14. Alexander's supervisors expressed disappointment and were disgruntled because Alexander mixed time from work because of his serious health condition.

15. Ultimately, Defendant terminated Alexander for following a procedure that all employees – many or all of whom did not use FMLA leave and/or who were not disabled – followed without recourse to their persons. Defendant suspended and later terminated Alexander for his 'indiscretion.'

16. Alexander has been harmed by Defendant's misconduct.

LEGAL CLAIMS

ADA VIOLATIONS

17. Alexander hereby incorporates by reference paragraphs one (1) through sixteen (16) of this Complaint.

18. Alexander was treated differently in the terms and conditions of his employment because of his disabilities in violation of the ADA. Moreover, Alexander was subjected to a severe and pervasive hostile work environment because of his

disability, complained to no avail, and was retaliated against for making these complaints.

19. Upon information and belief Defendant acted with intent, malice, and/or reckless disregard as to rights afforded to Alexander under the ADA.

20. Alexander suffered harm as a result of Defendant's unlawful conduct.

FMLA VIOLATIONS

21. Alexander hereby incorporates by reference paragraphs one (1) through twenty (20) of this Complaint.

22. Alexander was entitled to leave under the FMLA. Defendant, through its agents, interfered with and retaliated against Alexander because of his exercise of rights under the FMLA.

23. Defendant's conduct was intentional and/or sufficiently egregious to permit the award of liquidated damages under the FMLA.

24. Alexander suffered harm as a result of Defendant's unlawful conduct.

REQUESTED RELIEF

WHEREFORE, Plaintiff, Richard Alexander, respectfully requests the following:

- a) An Order finding Defendant liable for back wages in an amount to make Plaintiff whole;
- b) An Order finding Defendant liable for compensatory damages in an amount to make Plaintiff whole;
- c) An Order awarding Plaintiff punitive and liquidated damages as a penalty for Defendant's intentional, unlawful conduct;
- d) An Order awarding Plaintiff the costs of this action;

- e) An Order awarding Plaintiff his attorneys' fees;
- f) An Order awarding Plaintiff pre- and post-judgment interest at the highest rates allowed by law; and
- g) An Order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

s/ Christopher S. Wolcott
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Attorney for Plaintiff

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all issues deemed triable.

Respectfully submitted,

s/ Christopher S. Wolcott
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